IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

LISA VELASQUEZ OLIVAREZ,

Plaintiff,

v. **No. __________________**

GEO GROUP, INC.; WARDEN RAUL TREVINO, WARDEN BRENT BEMENT, LUIS VALLADAREZ, and OFFICER FNU CARRIZALES, in their official and individual capacities,

Defendants.

COMPLAINT FOR NEGLIGENCE, NEGLIGENCE PER SE, NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION, FALSE IMPRISONMENT, ASSAULT, VIOLATION OF CONSTITUTIONAL RIGHTS UNDER 42 U.S.C. SECTION 1983, *BIVENS* CLAIM, AND DAMAGES

Plaintiff, Lisa Velasquez Olivarez, by and through her counsel of record, HOLT MYNATT MARTÍNEZ (Blaine T. Mynatt, Casey B. Fitch, Edward Hernandez III, Damian L. Martínez), brings her claims for Negligence, Negligence Per se, Negligent Hiring, Training, Supervision and Retention, False Imprisonment, Assault, Intentional Infliction of Emotional Distress, Violation of Constitutional Rights Under 42 U.S.C. Section 1983, Bivens, Breach of Contract and Premises Liability and Damages as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a resident of the State of Texas.

2. At all times pertinent to this Complaint, Plaintiff was an inmate at the Maverick County Detention Center ("MCDC") in Maverick County, Texas.

3. At all times pertinent to this Complaint, Defendant Geo Group, Inc. ("Geo") operated Maverick County Detention Center pursuant to a contract with Maverick County.

4. Defendant Geo is a foreign corporation registered to do business in Texas, whose registered agent for service of process is Corporate Creations Network, 4265 San Felipe #1100, Houston, TX 77027.

5. Defendant Warden Raul Trevino, upon information and belief, at times pertinent to this complaint, was the Warden of MCDC.

6. Defendant Warden Brent Bement, upon information and belief, at times pertinent to this complaint, was the Warden of MCDC.

7. At all times pertinent to this Complaint, Defendant Luis Valladarez was an employee of Geo at MCDC.

8. At all times pertinent to this Complaint, Officer FNU Carrizales was employee for Geo as a detention center officer at MCDC.

9. At all times pertinent to this Complaint, Defendants Geo acted through its owners, officers, directors, employees, agents or apparent agents, including, but not limited to administrators, management, detention officers, and other personnel, and are responsible for their acts or omissions pursuant to the doctrines of respondeat superior, vicarious liability, agency or apparent agency.

10. At all times pertinent hereto, Defendant Valladarez was acting within the course and scope of his employment, under the color of law, and/or duties as a corrections officer.

11. Upon information and belief, Defendant Valladarez was at all times pertinent hereto, a resident of Maverick County, Texas.

12. Defendant Warden Trevino was responsible for the oversight of MCDC including providing proper management, oversight and developing appropriate formal and informal

policies, policies and inmate procedures and protections of the facility, up until December 31, 2012.

13. Defendant Warden Bement was responsible for the oversight of MCDC including providing proper management, oversight and developing appropriate formal and informal policies, policies and inmate procedures and protections of the facility, from January 1, 2013 until November 1, 2013.

14. The action giving rise to these claims occurred in Maverick County, Texas.

15. This Court has personal jurisdiction over the parties.

16. All defendants reside, have contacts with, and/or maybe found within the jurisdiction of this Court.

17. This Court has jurisdiction over the subject matter herein pursuant to 42 U.S.C. §1983 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).

18. This Court has supplemental jurisdiction over Plaintiff's claims under Texas law pursuant to 28 U.S.C. §1367 because they arise out of the same transaction.

19. Venue is proper in this Court.

FACTUAL BACKGROUND

20. The potential for sexual abuse and sexual misconduct directed toward inmates by detention center personnel was a problem well-known to those operating detention facilities, and creates a duty on the part of the detention facility administrators to protect inmates from such misconduct.

21. Such sexual abuse and sexual misconduct has ramifications not only for the individuals who are victimized, but for our society as a whole.

22. Inmates represent a particularly vulnerable population when it comes to sexual abuse because of a disparity in power between inmates and persons working in the facilities.

23. As a result, inmates view reporting abuse as futile, because:

a. Reporting abuse is humiliating and subjects them to a risk of retaliation;

b. They fear that complaints will not be kept confidential by staff, thereby subjecting them to the risk of ridicule and abuse by other inmates;

c. Reporting would effectively sever their access to medical services, commissary privileges, visitation privileges, work privileges and other privileges granted to inmates;

d. As a result of their inmate status, complaints are often not taken seriously, they have few advocates, their welfare is a low priority, and they have limited ability to change their circumstances or to effectively prevent misconduct; and

e. Given their sense of isolation and their belief that a detention officer's status as a law enforcement officer would place the officer's word above that of the individual inmate.

24. In order to protect this vulnerable population, those who operate detention facilities are subject to stringent rules, regulations and common sense standards of care regarding the prevention of sexual abuse in their facilities.

25. At all times pertinent hereto, Defendant Geo entered into for-profit contracts with Maverick County to operate and manage the detention center.

26. The contracts were exclusively for the housing of Federal inmates.

27. For-profit companies contracting within the State of Texas and with Maverick County to operate the detention facility and provide services to inmates must take appropriate

steps to identify and prevent sexual abuse and protect inmate welfare and constitutional rights to the same degree as their Federal and/or state-operated counterparts.

28. For-profit companies contracting within the State of Texas within Maverick County who operate detention facilities and provide services to inmates must also ensure they provide adequate training, supervision, and discipline regarding sexual abuse in their facilities.

29. Such supervision must include ensuring adequate supervision of detention officers, such that they never be allowed alone with inmates, especially detainees of the opposite sex.

30. The duties of such companies include adequately training and supervising staff, to be alert for and report suspicious activities between coworkers and inmates, identifying possible sexual abuse, developing systems so that staff and inmates are free from retaliation from reporting suspicious activities and knowing how to properly investigate allegations of, or perceived sexual abuse.

31. Duties of companies operating detention facilities and providing services in those facilities also include enacting and enforcing appropriate policies regarding background checks, staff evaluations and staff discipline.

32. When made aware of possible instances of sexual abuse and potential violations of inmate rights, companies such as Geo, cannot maintain the status quo at their facilities, but must act immediately to put a stop to such misconduct. Geo had a responsibility to the inmates at its detention center when it contracted for the operation and maintenance of that facility with Maverick County.

33. Geo's obligation was to ensure that those persons entrusted into its care in its facility would be provided basic human needs and their constitutional rights protected.

34. Plaintiff Olivarez was housed in MCDC in 2012 and 2013, pending adjudication of federal charges against her.

35. Plaintiff Olivarez was sentenced and moved to FMC, Carswell and currently resides there pending her release.

36. Defendant Geo's operation and maintenance of MCDC lasted until November 2013 when it relinquished its contract with Maverick County.

37. During early December 2012, Defendant Valladarez was in charge of and overseeing two pods of female inmates tasked with the preparation of lunch for approximately 900 inmates. Defendant Valladarez was in a supervisory position over Plaintiff Olivarez.

38. Plaintiff Olivarez had been allowed the privilege of kitchen duty and was working under the supervision of Defendant Valladarez.

39. Defendant Valladarez directed Plaintiff Olivarez to a large walk-in refrigerator freezer under the rouse of obtaining more food for the preparation of the meal or some other work related task.

40. Once they were inside, Defendant Valladarez shut the door and prevented Plaintiff from leaving.

41. Defendant Valladarez propositioned Plaintiff Olivarez for sex.

42. Plaintiff Olivarez became extremely frightened and concerned for her safety.

43. Defendant Valladarez would not take no for an answer and instead he bent Plaintiff Olivarez over a stack of milk cartons and vaginally penetrated her with his penis.

44. The rape caused Plaintiff Olivarez extreme pain and injury to her vagina.

45. Plaintiff Olivarez was in shock and emotionally traumatized. Plaintiff's anguish was severe.

46. Plaintiff Olivarez began suffering from severe depression and anxiety and she was unable to express that because no treatment existed for Plaintiff at MCDC while Defendant Valladarez remained employed.

47. Plaintiff Olivarez was extremely frightened of Defendant Valladarez and concerned for her safety; however, she was unable to express these concerns because of her fear of retaliation and reprisal.

48. Defendant Valladarez wielded tremendous power over Plaintiff Olivarez. He had the ability to remove her from kitchen detail. He had the ability to take away her good behavior points.

49. In fact, Defendant Valladarez, on multiple occasions, reminded Plaintiff Olivarez that if she reported the rape, and if she resisted his attempts to rape her, he would take away her visitation privileges such that she would not be able to see her family or children.

50. Defendant Valladarez threatened that he would have Plaintiff placed in the "hole" or special housing unit.

51. Defendant Valladarez threatened that he would have Plaintiff's commissary accounts suspended.

52. Defendant Valladarez threatened that he would have Plaintiff's phone privileges revoked.

53. In short, Defendant Valladarez threatened that he would take away all of the rights, benefits, and privileges Plaintiff had while in Geo's custody and control at MCDC.

54. Defendant Valladarez used coercion, threats, and physical force to dominate Plaintiff Olivarez.

55. Defendant Valladarez repeated his threats multiple times. Over the course of the next two months, Defendant Valladarez raped Plaintiff Olivarez three more times. These three rapes occurred in the storage room which housed kitchen items.

56. Defendant Valladarez would specifically pick Plaintiff Olivarez out of the kitchen staff and order her to go to the storage room.

57. Defendant Valladarez would then follow Plaintiff into the storage room under the pretext of stocking food items and gathering ingredients for meals.

58. Defendant Valladarez would then shut the door and ensure that it was secured from the inside so that they were alone, and preventing Plaintiff from leaving.

59. Defendant Valladarez would then order Plaintiff Olivarez that she "had better bend over so that [he] could fuck her real fast."

60. On each of these occasions, Plaintiff Olivarez told Defendant Valladarez that she was scared and asked him not to touch her.

61. On each occasion, he told her that if she did not bend over and let him penetrate her, that he would fire her from the kitchen staff, ensure she could not visit her parents or see her children, get her thrown in the hole, remove funds from her commissary accounts and prevent her from making phone calls. After repeating these threats, Defendant Valladarez would forcibly bend her over, pull her pants down and vaginally penetrate her with his penis.

62. On each occasion, Plaintiff Olivarez suffered extreme pain and vaginal injury.

63. After each of these occasions, Defendant Valladarez would order Plaintiff Olivarez to "clean up" and stay in the storage room until after he had left it, so that he could not be caught.

64. Plaintiff Olivarez grew more despondent and traumatized by these serial rapes.

65. Finally, Plaintiff Olivarez mustered the courage and strength to report these rapes.

66. Plaintiff Olivarez reported the rapes to Detention Officer FNU Carrizales in January 2013.

67. Defendant Carrizales laughed when Plaintiff Olivarez told her about the assaults.

68. Defendant Carrizales insisted that Defendant Valladarez would never "do anything" to risk his career at Geo.

69. Defendant Carrizales also said that Defendant Valladarez would "never do anything to jeopardize his marriage and relationship with his young daughter."

70. Defendant Carrizales failed to immediately report the rapes involving Plaintiff Olivarez. At some point, however, word got out among the inmates that this was occurring and the administration began to look into these allegations.

71. Eventually, Defendant Valladarez was arrested and charged with Sexual Abuse of a Ward, a federal crime.

72. On October 30, 2013, Defendant Valladarez pled guilty to Assault with Intent to Commit a Felony for the rape of Plaintiff Olivarez.

73. Defendant Geo allowed the serial rapes of Plaintiff Olivarez until it was ultimately reported to the police.

74. Detention facility wardens are policy makers and supervisors at the facilities they oversee and are responsible for ensuring that the facilities are administered properly, lawfully, safely, humanely, and in keeping with their contracts.

75. Detention center wardens have the ability to control the conduct of their staff and are responsible for ensuring the facilities they operate are safe and free from abuse, including sexual abuse by detention center personnel.

76. Detention center wardens are also responsible for ensuring that personnel hired and retained to properly train and supervise and not pose a danger to inmates housed under their care.

77. Detention center wardens are responsible for ensuring that their facilities have and enforce adequate policies and disciplinary measures to keep the facilities running safely.

78. Defendant Wardens Trevino and Bement perpetuated lax inmate protections in a culture that allowed this type of abuse to occur and continue.

79. To prevent abuse, detention center operators must be aware of and sensitive to the conditions and phenomena that make inmates especially vulnerable. To that end, detention facility officials have a duty to be aware that sex abusers seek employment among vulnerable populations, including a duty to investigate potential employees and ensure a high degree of supervision for all employees having direct contact with inmates.

80. Detention center personnel must never be permitted to be alone and unobserved with members of the vulnerable population, especially members of the opposite sex.

81. Detention center personnel must never be permitted to be alone and unobserved with inmates because allowing unsupervised access to inmates with no third party present gives rise to the risk of sexual abuse.

82. Under 28 CFR Section 115.52, an agency is not allowed to place any time limitations on the reporting of sexual abuse within its facility.

83. Plaintiff Olivarez reported to FNU Carrizales that she was being raped by Defendant Valladarez.

84. Geo's Offender Handbook Policies allowed for the oral reporting of sexual abuse by a detention officer on an inmate.

85. Plaintiff Olivarez was not afforded any administrative hearing or given any documentation related to her reporting of the sexual abuse.

86. Upon information and belief, somewhere in the middle of January 2013, Defendant Geo was put on notice of the sexual abuse being committed upon Plaintiff Olivarez.

87. Subsequent to the oral reporting by Plaintiff Olivarez, allowed under Defendant Geo's own policies, there were several written grievances made to Defendant Geo. In order to ensure compliance with the Prison Litigation Reform Act's exhaustion of remedies requirement.

88. On February 17, 2014 and April 2, 2014, written correspondence was sent to Defendant Geo by counsel Cesar Escamilla to which no response was received.

89. Again on October 10, 2014, written notice of the grievance was given to counsel for Defendant Geo, Shawn Fitzpatrick via email. A response from Mr. Fitzpatrick on October 10, 2014 specifically stated that Defendant Geo was declining the request to accept the email as an additional formal written grievance concerning Plaintiff Olivarez's sexual abuse.

90. On October 14, 2014, an additional written request was made to Mr. Fitzpatrick regarding the acceptance of written notice of the sexual abuse to trigger administrative proceedings that Plaintiff Olivarez was entitled to while housed at MCDC.

91. In a message received back on that same day, Mr. Fitzpatrick responded that Defendant Geo was denying Plaintiff Olivarez's request that a formal written grievance would trigger any administrative remedies.

92. Specifically, Mr. Fitzpatrick stated that he would "deny in advance all similar requests that might be made and directed to him in the future."

93. Again on October 20, 2014, written inquiry was made to Mr. Fitzpatrick asking if he was not willing to accept a formal written grievance regarding the incidents that occurred at MCDC, who would accept it.

94. Later that same day, a response from Mr. Fitzpatrick informed counsel that if the information was not in documents forwarded to counsel, there was no provision for submitting a grievance under these particular conditions. Confirmation was later obtained from Mr. Fitzpatrick that there was no available procedure for Plaintiff Olivarez to submit a grievance under these conditions.

95. Again, out of an abundance of caution, to comply with the exhaustion requirements imposed by PLRA, on October 28, 2014, Plaintiff Olivarez sent a letter to Defendant Geo, Defendant Bement, Defendant Trevino, the County Judge of Maverick County, Director of the Federal Medical Center at Carswell, to the Warden of FMC Carswell, to Defendant Geo's general counsel, to Kevin Blair at Western Litigation, third party administrator of Defendant Geo, to Maverick County Sheriff Tom Schmerber, and to Shawn Fitzpatrick, counsel for Defendant Geo.

96. On November 5, 2014, a response was received by counsel from Mr. Fitzpatrick stating "[t]o the extent your letter is a formal grievance concerning the matters related therein, it is untimely. My client specifically declines to address the letter's substance as part of any grievance process."

97. On November 5, 2014, counsel sent written correspondence to Mr. Fitzpatrick requesting that he accept that letter as an appeal of Defendant Geo's decision to decline consideration of the grievance in order to pursue any appeal rights of the denial.

98. On November 7, 2014, counsel for Plaintiff Olivarez received written correspondence from Mr. Fitzpatrick stating that Defendant Geo "did not accept your October 28 correspondence as a grievance because it was untimely. There will be no substantive response by Geo to your November 5 letter either."

99. Plaintiff Olivarez has attempted numerous times to exhaust her remedies as set forth by the PLRA.

100. At all relevant times, Plaintiff has authorized her attorneys to file grievances on her behalf.

101. Plaintiff Olivarez has, on all occasions, been denied the opportunity to exhaust those administrative remedies by Defendant Geo.

102. Any and all requirements for exhaustion of administrative remedies under the PLRA have been met by Plaintiff Olivarez.

COUNT I: NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION BY DEFENDANTS GEO, WARDEN TREVINO AND WARDEN BEMENT

103. The statements of all previous paragraphs are hereby incorporated by reference.

104. At all times pertinent hereto, Defendant Geo, through its employees and agents and Wardens Trevino and Bement were required to use ordinary care of a reasonably prudent entity or person in hiring, credentialing, training, supervising and staffing, and having policies and procedures in place to ensure inmates at their facility were unnecessarily endangered.

105. Defendants Geo, Trevino and Bement, through their employees and agents, intentionally, willfully, recklessly and negligently did not use the ordinary care of a reasonably prudent entity or person by committing acts and omissions including the following:

a. Choosing not to have or enforce adequate policies and procedures relating to the prevention of inmate abuse or predatory conduct;

b. Choosing not to conduct adequate training of supervisors or staff to prevent abusive or predatory conduct by facility staff;

c. Choosing not to adequately supervise, to prevent abusive or predatory conduct by facility staff;

d. Choosing not to have or enforce safety policies related to operation of kitchen facilities and the unsupervised involvement between staff and inmates;

e. Choosing not to investigate or inadequately investigating the background of prospective staff with a history of inappropriate, abusive, or predatory conduct;

f. Choosing not to train management and employees to properly investigate and address allegations of inappropriate conduct, abuse or predatory conduct;

g. Choosing not to have or enforce adequate policies related to reporting, investigation and resolution of allegations of inappropriate conduct, abuse or predatory conduct;

h. Choosing not to take adequate steps to safely operate or maintain the facility.

106. Defendant Geo is responsible for their own acts and omissions as well as the acts and omissions of their employees and agents pursuant to the doctrine of agency and respondeat superior.

107. As a direct and proximate result of the intentional, willful, reckless or negligent acts and omissions of Defendant Geo, Defendants Trevino and Bement, and their employees and agents, Plaintiff Olivarez suffered physical and emotional damages including physical injury, pain and suffering, invasion of bodily integrity, denial of basic human needs, and exposure to severe psychological and emotional distress.

108. Because the acts and omissions of Defendants were willful, wanton, or done in reckless disregard for Plaintiff's safety and the safety of all individuals working or incarcerated at Defendants' facilities, these Defendants are subject to punitive damages, as well as compensatory damages.

COUNT II: NEGLIGENCE PER SE BY DEFENDANTS GEO, TREVINO AND BEMENT

109. All previous paragraphs are incorporated herein by reference.

110. Defendant Geo owed a duty to Plaintiff to use ordinary care in operating and maintaining and managing MCDC.

111. Defendants Trevino and Bement owed a duty to Plaintiff to use ordinary care in overseeing, running and enacting policies for MCDC.

112. By choosing not to exercise ordinary care to prevent foreseeable harm to Plaintiff, Defendants Geo, Trevino and Bement acted willfully, recklessly, wantonly, negligently and/or negligently per se, breaching a duty they owed to Plaintiff in multiple ways, including, but not limited to, the following:

a. Intentionally choosing to inflict emotional distress on Plaintiff through their extreme and outrageous conduct;

b. Choosing not to ensure adequate levels of staffing and provide for video monitoring to protect inmates from sexual abuse in violation of 28 CFR Section 115.13;

c. Choosing to hire and promote individuals to have contact with inmates who engaged in sexual abuse in a detention facility, in violation of 28 CFR Section 115.17(a);

d. Choosing not to perform background checks, or performing inadequate background checks, and making inadequate efforts to contact prior employers before hiring new staff members, in violation of 28 CFR Section 115.17(c);

e. Choosing not to ask all applicants directly about any previous sexual misconduct and choosing not to impose upon employees/interns a continuing and affirmative duty to disclose any such conduct in violation of 28 CFR Section 115.17(f);

f. Choosing not to conduct training or to conduct inadequate training on zero tolerance policies for sexual abuse;

g. Inmates' rights to be free from sexual abuse;

h. The right of inmates and employees to be free from retaliation for reporting sexual abuse;

i. The dynamics of sexual abuse in confinement; common reactions of sexual abuse victims; how to detect and respond to signs of threatened and actual sexual abuse; and how to avoid inappropriate relationships with inmates, in violation of 28 CFR Section 115.31.

113. Plaintiff Olivarez is in the class of persons sought to be protected by the aforementioned regulations and the injuries suffered are the type intended to be protected by the enactment of the regulations.

114. As a direct and proximate cause of Defendants' negligence and negligence per se, Plaintiff Olivarez suffered physical and emotional damages, including physical injury, pain, suffering, invasion of bodily integrity, and severe psychological and emotional distress.

115. Defendants Geo, Trevino and Bement are liable for their own acts and omissions and are also liable for the acts and omissions of their agents and employees pursuant to the doctrines of agency and respondeat superior.

COUNT III: NEGLIGENCE PER SE BY DEFENDANT VALLADAREZ

116. All previous paragraphs are incorporated herein by reference.

117. Under the guise of operating the kitchen and by using his position as a detention officer to sexually abuse Plaintiff, Defendant Valladarez acted willfully, recklessly, wantonly, negligently and/or was negligent per se, breaching the duty he owed to Plaintiff in multiple ways, including but not limited to, the following:

a. Intentionally choosing to inflict emotional distress on Plaintiff through his extreme and outrageous conduct;

b. Choosing to engage in criminal sexual penetration of an inmate confined in a jail while being in a position of authority over that person in violation of Texas Law.

118. Plaintiff was in the class of persons sought to be protected by the aforementioned statute and the injuries suffered are of the type intended to be prevented by the enactment of these statutes.

119. Defendant Geo is liable for the acts and omissions of Defendant Valladarez under the doctrine of agency and respondeat superior.

120. As a direct and proximate result of Defendants Geo's and Valladarez's negligence and negligence per se, Plaintiff suffered physical and emotional damages, including physical injury, pain and suffering, invasion of bodily integrity, and severe psychological and emotional distress.

COUNT IV: FALSE IMPRISONMENT

121. All previous paragraphs are incorporated herein by reference.

122. Defendant Valladarez willfully detained Plaintiff on multiple occasions, not allowing her to leave his physical presence in the freezer or the storage room.

123. The detention imposed by Defendant Valladarez was without Plaintiff's consent.

124. The detention imposed by Defendant Valladarez was without any legal authority or justification.

125. In fact, the detention imposed by Defendant Valladarez was illegal in its nature because it was with the intent to commit a violent felony against Plaintiff to wit: rape.

126. Defendant Geo, Valladarez's employer, is responsible under the doctrines of agency and/or respondeat superior for those actions by its employee in the course and scope of his employment. Defendant Valladarez was on duty, acting as a detention officer at MCDC when he raped Plaintiff, an inmate at that facility, multiple times.

127. As a direct and proximate result of Defendant Valladarez's false imprisonment of Plaintiff, she suffered physical and emotional damages, including physical injury, pain and suffering, invasion of bodily integrity and severe psychological and emotional distress.

COUNT V: ASSAULT—INFLICTION OF BODILY INJURY

128. All previous paragraphs are incorporated herein by reference.

129. On four separate occasions while Plaintiff Olivarez was an inmate at MCDC, Defendant Valladarez forcibly raped her.

130. On each of these occasions, Defendant Valladarez acted intentionally, knowingly and recklessly.

131. Defendant Valladarez made contact on each of these occasions with the Plaintiff's person during the course of these rapes.

132. Defendant Valladarez's conduct and contact caused bodily injury to Plaintiff Olivarez on each of these occasions.

133. Defendant Geo is responsible and liable for the acts and omissions of Defendant Valladarez pursuant to the doctrines of agency and respondeat superior.

134. As a direct and proximate result of Defendant Valladarez's conduct, Plaintiff Olivarez suffered physical and emotional damages, including physical injury, pain and suffering, invasion of bodily integrity and severe psychological and emotional distress.

COUNT VI: ASSAULT—OFFENSIVE PHYSICAL CONTACT

135. All previous paragraphs are incorporated herein by reference.

136. Defendant Valladarez acted intentionally or knowingly when raping Plaintiff on four separate occasions while housed as an inmate at MCDC.

137. Defendant Valladarez made contact with Plaintiff's person while raping her on more than one occasion at MCDC.

138. Defendant Valladarez knew or reasonably should have known that Plaintiff would regard the contact as offensive or provocative.

139. Defendant Valladarez's contact caused injury to Plaintiff.

140. Defendant Geo is responsible and liable for the acts and omissions of Defendant Valladarez pursuant to the doctrines of agency and respondeat superior as he was acting within the course and scope of his employment while on duty as a detention officer at MCDC.

141. As a direct and proximate result of Defendant Valladarez's conduct, Plaintiff suffered physical and emotional damages, including physical injury, pain and suffering, invasion of bodily integrity and severe psychological and emotional distress.

COUNT VII: DEPRIVATION OF CIVIL RIGHTS UNDER 42 U.S.C. SECTION 1983 BY DEFENDANTS GEO, TREVINO AND BEMENT

142. All previous paragraphs are incorporated herein by reference.

143. Defendants Geo, Trevino and Bement are all state actors, who at all times pertinent hereto, were acting under color of state law.

144. Defendants Geo, Trevino and Bement had a duty to ensure the safety of all persons under their direct care, control and custody, including Plaintiff Olivarez.

145. Defendants Geo's, Trevino's and Bement's policy and practice of inadequate training and supervision and of turning a blind eye to the ongoing sexual abuse, violated the constitutional rights of Plaintiff Olivarez to be free from cruel and unusual punishment and to be protected in her bodily integrity and personal security.

146. Defendants Geo, Trevino and Bement were aware and should have been aware of conditions at MCDC and especially those related to kitchen detail and Defendant Valladarez's actions while in their employ that create a substantial risk inmates would suffer serious harm, mainly sexual abuse, but chose not to take any appropriate steps to protect inmates from such abuse.

147. Defendants Geo, Trevino and Bement had a policy and custom of failing to adequately evaluate, train, monitor, supervise, discipline and enforce policies and otherwise control their agents and employees.

148. Defendants Geo, Trevino and Bement further had a policy and custom of inadequate training, choosing not to encourage reporting of suspicious activity and failing to adequately investigate and make complaints.

149. Defendants Geo, Trevino and Bement had a policy or custom of permitting detention officers to be alone with inmates of the opposite sex within MCDC in areas unsupervised and/or monitored by cameras or physical sight.

150. Defendants Geo, Trevino, and Bement, as policymakers, were deliberately indifferent to conditions at MCDC that permitted the sexual abuse of Plaintiff and their obvious consequence of depriving individuals like Plaintiff of their civil rights.

151. Defendants Geo, Trevino and Bement acted with reckless disregard for Plaintiff's right to be free from bodily harm under the control and protection of Defendants in violation of the Plaintiff's due process rights.

152. Defendants Geo's, Trevino's and Bement's decisions not to adequately train and supervise and deliberate indifference to the widespread practices at MCDC that enabled the sexual abuse of Plaintiff directly and proximately caused the constitutional deprivation resulting in Plaintiff's damages, including physical injury, pain and suffering, invasion of bodily integrity, and severe psychological and emotional distress.

153. Defendants Geo, Trevino and Bement acted intentionally, maliciously and with reckless indifference to Plaintiff's constitutional rights and her emotional and physical well-being when they permitted conditions that enabled the sexual abuse of inmates to occur at MCDC. An award of punitive damages is necessary to punish Defendants' conduct and prevent this sort of mistreatment from occurring in the future.

COUNT VIII: DEPRIVATION OF CIVIL RIGHTS UNDER 42 U.S.C. SECTION 1983 BY DEFENDANT VALLADAREZ UNDER THE FOURTH AND FOURTEENTH AMENDMENTS

154. All previous paragraphs are incorporated herein by reference.

155. Defendant Valladarez is a state actor employed by Geo pursuant to a contract with MCDC.

156. At all times pertinent hereto, Defendant Valladarez was acting under color of state law.

157. At the time of the events described herein, Plaintiff was a pre-conviction inmate guaranteed by the Fourth Amendment to be free from cruel and unusual conditions of confinement. This right includes Plaintiff's right to be afforded a reasonable degree of safety from serious bodily harm; to be secure in her bodily integrity; and to be free from attack by MCDC personnel.

158. Defendant Valladarez's decision to permit repeated sexual abuse by raping Plaintiff, who was entrusted to his care, was unreasonable, cruel and harmful and amounted to an unreasonable seizure of her person.

159. Defendant Valladarez was able to exact this sexual abuse on Plaintiff only because of his position as a detention center officer. Without this authority, Defendant Valladarez would not have been able to gain access to Plaintiff.

160. As a direct and proximate result of Defendant Valladarez's actions, Plaintiff suffered physical and emotional damages, including physical injury, physical pain and suffering and invasion of bodily integrity, denial of competent medical care and severe psychological and emotional distress.

161. Defendant Valladarez acted intentionally, maliciously and with reckless indifference to Plaintiff's constitutional rights and her emotional and physical well-being when he sexually abused her on more than four occasions while she was an inmate at MCDC. An award of punitive damages is necessary to punish his conduct and prevent the further mistreatment to inmates in the future.

COUNT IX: *BIVENS* CLAIM AGAINST DEFENDANTS TREVINO AND BEMENT

162. All previous paragraphs are incorporated herein by reference.

163. As an alternative to Plaintiff's claims, under §1983, Plaintiff alleges the following under *Bivens v. Six Unknown Named Agents* 403 U.S. 388 (1971).

164. Defendants Trevino and Bement are Federal actors, who at all times pertinent hereto, were acting under color of Federal law.

165. Defendants Trevino and Bement had a duty to ensure the safety of all persons under their direct care, control and custody, including Plaintiff Olivarez.

166. Defendants Trevino's and Bement's policy and practice of inadequate training and supervision and of turning a blind eye to the ongoing sexual abuse, violated the constitutional rights of Plaintiff Olivarez to be free from cruel and unusual punishment and to be protected in her bodily integrity and personal security.

167. Defendants Trevino and Bement were aware and should have been aware of conditions at MCDC and especially those related to kitchen detail and Defendant Valladarez's actions while in their employ that create a substantial risk inmates would suffer serious harm, mainly sexual abuse, but chose not to take any appropriate steps to protect inmates from such abuse.

168. Defendants Trevino and Bement had a policy and custom of failing to adequately evaluate, train, monitor, supervise, discipline and enforce policies and otherwise control their agents and employees.

169. Defendants Trevino and Bement further had a policy and custom of inadequate training, choosing not to encourage reporting of suspicious activity and failing to adequately investigate and make complaints.

170. Defendants Trevino and Bement had a policy or custom of permitting detention officers being alone with inmates of the opposite sex within MCDC in areas unsupervised and/or monitored by cameras or physical sight.

171. Defendants Trevino and Bement, as policymakers, were deliberately indifferent to conditions at MCDC that permitted the sexual abuse of Plaintiff and their obvious consequence of depriving individuals like Plaintiff of their civil rights.

172. Defendants Trevino and Bement acted with reckless disregard for Plaintiff's right to be free from bodily harm under the control and protection of Defendants in violation of the Plaintiff's due process rights.

173. Defendants Trevino's and Bement's decisions not to adequately train and supervise and deliberate indifference to the widespread practices at MCDC that enabled the sexual abuse of Plaintiff directly and proximately caused the constitutional deprivation resulting in Plaintiff's damages, including physical injury, pain and suffering, invasion of bodily integrity, and severe psychological and emotional distress.

174. Defendants Trevino and Bement acted intentionally, maliciously and with reckless indifference to Plaintiff's constitutional rights and her emotional and physical well-being when they permitted conditions that enabled the sexual abuse of inmates to occur at

MCDC. An award of punitive damages is necessary to punish Defendants' conduct and prevent this sort of mistreatment from occurring in the future.

COUNT XI: *BIVENS* CLAIM AGAINST DEFENDANT VALLADAREZ

175. All previous paragraphs are incorporated herein by reference.

176. As an alternative to Plaintiff's claims, under §1983, Plaintiff alleges the following under *Bivens v. Six Unknown Named Agents* 403 U.S. 388 (1971).

177. Defendant Valladarez was a Federal actor employed by Geo pursuant to a contract with MCDC to house Federal detainees.

178. At all times pertinent hereto, Defendant Valladarez was acting under color of Federal law.

179. At the time of the events described herein, Plaintiff was a pre-conviction inmate guaranteed by the Fourth Amendment to be free from cruel and unusual conditions of confinement. This right includes Plaintiff's right to be afforded a reasonable degree of safety from serious bodily harm; to be secure in her bodily integrity; and to be free from attack by MCDC personnel.

180. Defendant Valladarez's decision to permit repeated sexual abuse by raping Plaintiff, entrusted to his care, was unreasonable, cruel and harmful and amounted to an unreasonable seizure of her person.

181. Defendant Valladarez was able to exact this sexual abuse on Plaintiff only because of his position as a detention center officer. Without this authority, Defendant Valladarez would not have been able to gain access to Plaintiff.

182. As a direct and proximate result of Defendant Valladarez's actions, Plaintiff suffered physical and emotional damages, including physical injury, physical pain and suffering

and invasion of bodily integrity, denial of competent medical care and severe psychological and emotional distress.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lisa Velasquez-Olivarez respectfully requests a trial by jury, and that she be awarded compensatory and punitive damages against Defendant Geo Group, Inc., Warden Raul Trevino, Warden Brent Bement, Luis Valladarez and Officer FNU Carrizales in an amount to be proven at trial, along with costs, pre-judgment interest, post-judgment interest, attorneys' fees and any and all relief this Court deems reasonable and appropriate under the circumstances.

Respectfully submitted,

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By:______________________

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